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Paper No. 24

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**JAN 21 2004**

**OFFICE OF PETITIONS**

**ON PETITION**

In re Application of  
James W. Forbes  
Application No. 09/804,406  
Filed: March 12, 2001  
Attorney Docket No. 5699-32

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This is a decision on the petition, filed December 4, 2003, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee. This application issued into Patent No. 6,659,016 on December 9, 2003.

The petition is **DISMISSED** as moot.

Unfortunately, the petition reached the appropriate official for decision after the patent issued on the above-identified application.<sup>1</sup> The inconvenience caused petitioner in this matter is sincerely regretted.

The Request for Continued Examination (RCE) submitted with the petition is not effective and will not be entered since the petition to withdraw from issue is dismissed.

Petitioner's attention is also directed to 37 CFR 1.313(d), which states: A petition under this section [37 CFR 1.313(c)] will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue."

A decision on the petition under 37 CFR 1.78(a)(3) will be held in abeyance pending submission of a certificate of correction and \$100 fee therefor. In this regard, petitioner's attention is directed to MPEP 1481.

Applicant is given **ONE (1) MONTH** from the mail date of this decision to reply to the above.

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<sup>1</sup> The instant petition and application file was received in the Office of Petitions on January 13, 2004 (after issuance of the instant application into a patent), the deciding official for petitions to withdraw from issue after payment of the issue fee under 37 CFR 1.313(c).

Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-8859.



Karen Creasy  
Petitions Examiner  
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for Patent Examination Policy